

REMARKS/ARGUMENTS

Claims 1, 3-6, 8, 10, 15, 17-19 and 21-25 are pending in the application. Claims 2, 7, 9, 11-14, 16, 20, and 26 have been canceled without prejudice. The Office Action rejected Claims 1, 3, 8, 10, 18, 19, 21, and 23-25 as being anticipated by Belokin, Jr. et al. (US Patent 5,123,461). Claims 1, 3-5, 8, 10, 11, 18, 19, 21, and 23-25 were rejected as being anticipated by Bianchi (US Patent 5,782,373). Claims 1, 3, 6 and 22 were rejected as being anticipated by Manska (US Patent 4,883,198). Claims 13, 15 and 17 were rejected under 35 USC 103(a) as being unpatentable over Bianchi '373 in view of Tedford, Jr. (US Patent 6,328,203).

The Office Action also presents an alternative set of rejections of the same claims (to the extent that "heat staked" imparts structure to the claims) based on a combination of the above-noted references with U.S. Patent No. 6,766,919 to Huang et al. The Office Action takes the position that heat-staking the closure panel or pull ring to the container would have been obvious in view of Huang.

Applicants have amended the claims to include further structural aspects of the heat-staked frangible interface by which the panel or lid is attached to the container body. In particular, Claim 1 recites that the container body and panel both comprise the same polymer material, and the sealed, frangible interface comprises the polymer material along an outer edge of the panel and along an inner edge of the opening of the container body being melted and joined together.

Similar recitations have been included in the other independent claims. Thus, Claim 15 recites that the container body is formed by a wall of polymer material and the pull feature includes a ring of polymer material that overhangs the outer edge of the panel and is heat-staked to the end wall of the container body to create a sealed, frangible interface as described above. Claim 17 is similar to Claim 15 except that the ring extends between the outer edge of the panel and the inner edge of the opening in the container body, the ring being heat-staked to the inner

edge to create the above-described sealed, frangible interface. Claim 18 is similar to Claim 1 in that the lid is attached to the top end of the container body by heat staking in which the polymer material of the lid and the polymer material of the container body are melted and joined together.

Applicants submit that none of the cited references anticipates any of independent Claims 1, 15, 17, or 18. U.S. Patent No. 5,123,461 to Belokin, Jr. et al. discloses a container with removable top and bottom ends and with a tapered side wall to accommodate nesting of multiple containers prior to filling with a liquid and after dispensing of the liquid. A threaded cap **134** is provided on the top end of the container and a scored *metal* disk bottom closure **39** is provided on the bottom end of the container. Belokin fails to disclose a container body and panel of the same polymer material, or a panel or removable lid that is heat staked to a container body. For at least this reason, Applicants respectfully submit that Claims 1 and 18, and Claims 3, 8 and 10 and Claims 19, 21 and 23-25 that respectively depend therefrom, are not anticipated by Belokin.

The Office Action rejected Claims 1, 3-5, 8, 10, 11, 18, 19, 21 and 23-25 under 35 USC 102(b) as being anticipated by U.S. Patent No. 5,782,373 to Bianchi. Bianchi discloses a *metal* beverage can having an easy-opening tab on the top of the can and a second easy-opening tab on the bottom of the can. Thus, Bianchi fails to disclose a container body and panel of the same polymer material, or a panel or removable lid that is heat staked to a container body. For at least this reason, Applicants respectfully submit that Claims 1 and 18, and Claims 3-5, 8, and 10 and Claims 19, 21 and 23-25 that respectively depend therefrom, are not anticipated by Bianchi.

The Office Action rejected Claims 1-3, 6 and 22 under 35 USC 102(b) as being anticipated by U.S. Patent No. 4,883,198 to Manska. Manska discloses a container with a top **14** on one end and a peelable sealing strip **32** on an opposite end, such that opening the seal while a semi-solid mass, such as dog food, is being dispensed from the first end after the top has been removed will release the vacuum pressure inside the container to allow the semi-solid mass to exit the container as a unitary mass. Manska discloses removing the top with an ordinary can opener (col. 2, lines 30-32) and alternative tops such as tops with tear string, foil tear tops, metal tear-off tops, metal band seals, screw-off lids, and pull-off lids (col. 2, lines 46-56). Thus,

Manska fails to disclose a container body and panel of the same polymer material, or a panel or removable lid that is heat staked to a container body. For at least this reason, Applicants respectfully submit that Claim 1, Claims 3 and 6 that depend therefrom, and Claim 22 are not anticipated by Manska.

The Office Action rejected Claims 13, 15, and 17 under 35 USC 103(a) as being unpatentable over Bianchi in view of U.S. Patent No. 6,328,203 to Tedford, Jr. As stated above, Bianchi discloses a metal disk closure that is scored to permit its removal. Tedford discloses an opening feature for a beverage container wherein a pull tab **11** is adhered to a film **18** to cover a perforation **14**. The pull tab is removed to provide access to the perforation. Tedford fails to disclose any ring. Accordingly, Tedford fails to supply the teachings that are lacking in Bianchi.

Neither reference discloses a container body formed by a wall of polymer material and a pull feature that includes a ring of polymer material that overhangs the outer edge of the panel and is heat-staked to the end wall of the container body to create a sealed, frangible interface as required by Claim 15.

Furthermore, neither reference discloses a ring that extends between the outer edge of a panel and the inner edge of an opening in a container body, the ring being heat-staked to the inner edge to create the above-described sealed, frangible interface as required by Claim 17.

For at least these reasons, Claims 15 and 17 are not suggested by Bianchi and Tedford.

The Office Action, as noted, also included alternative bases for rejection, relying on Huang as teaching heat-staking. The Office Action asserted that Huang would have made it obvious to modify Belokin's container, which has a scored metal disk closure, to heat-stake the closure to the container. However, the present claims include features that Belokin and Huang, even if properly combinable (which is disputed), still fail to teach. For example, Claims 1 and 18 require that the container body and panel/lid comprise the same polymer material, and neither Belokin nor Huang discloses this aspect.

Next, the Office Action asserted that Huang would have made it obvious to modify Bianchi's container, which is a metal beverage can, to heat-stake the closure to the container. However, neither Bianchi nor Huang discloses the container body and panel/lid comprising the same polymer material as in Claims 1 and 18.

The Office Action also asserted that Claims 15 and 17 would have been obvious based on Bianchi, Huang, and Tedford. However, as noted, none of those references discloses a polymer ring as required by the claims. Moreover, the references certainly do not disclose the particular arrangement of a polymer ring with respect to a panel and container body as recited in the claims. Claim 15 requires the ring to overhang the outer edge of the panel and to be heat-staked to the end wall of the container body. Claim 17 requires the ring to extend between the outer edge of the panel and the inner edge of the opening in the end wall and to be heat-staked to the inner edge. These features are completely absent in the cited references.

Finally, the Office Action asserted that Huang would have suggested modifying Manska's container to include a panel heat-staked to the container body as in Claims 1, 3, 6, and 22. However, neither of these references discloses the container body and panel/lid comprising the same polymer material as in these claims.

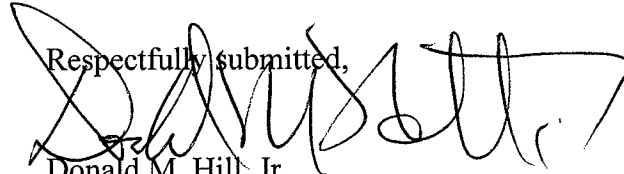
CONCLUSION

In view of the foregoing amendments and remarks, Applicants respectfully submit that all pending claims of the present application are in condition for allowance.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required

Appl. No.: 10/634,240
Amdt. Dated 11/15/2006
Reply to Office Action of June 16, 2006

therefor (including fees for net addition of claims) is hereby authorized to be charged to Deposit
Account No. 16-0605.

Respectfully submitted,

Donald M. Hill, Jr.
Registration No. 40,646

Customer No. 00826
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Charlotte Office (704) 444-1000
Fax Charlotte Office (704) 444-1111

**ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT &
TRADEMARK OFFICE ON NOVEMBER 15, 2006.**